

REMARKS/ARGUMENTS

The rejection of claims 10 and 11 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to point out and distinctly claim the subject matter which applicant regards as the invention is respectfully traversed and submitted to be in error for the following reasons:

Claims 10 and 11 are deemed vague and indefinite in the recitation of HabA and HabB. The specification is amended after page 14 and before the listing of claims to insert the designation of these enzymes. The enzyme sequences were taken from the Davis et al paper referenced at page 2 of the specification. A computer readable form (diskette) of this listing accompanies this response.

The rejection of claims 4, 10 and 11 under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention is respectfully traversed and submitted to be in error for the following reasons:

The Examiner states "The claims are broadly drawn to the use of enzymes expressed from cloned genes..." Claim 4 is cancelled herein; claims 10 and 11 are amended herein to recite that the enzymes are cloned from *Pseudomonas pseudoalcaligenes* strain JS45 and expressed in recombinant bacteria. It is believed that the instant amendments overcome the rejection.

The rejection of claim 6 under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to

make and/or use the invention is respectfully traversed and submitted to be in error for the following reasons:

The Examiner refers to the deposit of *P. pseudoalcaligenes* JS45.

Although claim 6 is cancelled herein, claims 10 and 11 are amended to specify that JS45 is the source of the HabA and HabB genes. The specification is amended herein to specify that strain JS45 was deposited in the American Type Culture Collection Patent Deposit in January, 2002, Patent Deposit Designation PTA-3972.

The sentence referring to such deposit inserted at page 2 was copied from U. S. Patent 6,432,683. It is believed that this amendment satisfies the deposit requirement.

The rejection of claims 1-3 and 5-7 under 35 U.S.C. 102(a) as being anticipated by the Davis et al literature reference is respectfully traversed and submitted to be in error for the following reasons:

The rejected claims are cancelled herein. Accordingly the rejection is believed to be moot.

The rejection of claims 1-3 and 5-7 under 35 U.S.C. 102(a) as being anticipated by the Nishino et al literature reference is respectfully traversed and submitted to be in error for the following reasons:

The rejected claims are cancelled herein. Accordingly the rejection is believed to be moot.

I hereby state that the information recorded in computer readable form is identical to the written sequence listing.

I hereby state that the submission, filed in accordance with 37 CFR 1.821(g), herein does not include new matter.

Applicants filed a Second Petition to Award Earlier Filing Date on or about 10-01-2003. It is requested that further action in this case be suspended until a decision is made on the Second Petition.

Respectfully submitted,



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